

Economic Sanctions To Combat International Terrorism

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The following publication is adapted from a report prepared by the Department of State in response to a request from Senators Richard G. Lugar and Frank H. Murkowski for an analysis of the advisability of economic sanctions as a diplomatic tool to combat international terrorism.

Advisability of Imposing Antiterrorism Sanctions

This Administration is taking actions to combat international terrorism by every legitimate means. Economic sanctions are an integral part of peaceful measures that we can take to deter states from supporting terrorism. The advisability of imposing sanctions depends on their likely effectiveness and the economic and diplomatic consequences for the United States. In addition to their potential economic effect, sanctions may serve useful political and diplomatic ends.

Economic sanctions may be used to pressure targeted states to change their policies and to strengthen the resolve of others, such as neighboring countries or U.S. allies, in dealing with governments that support terrorism. Although sanctions such as trade controls may adversely affect our global trade position and may have a particularly negative impact on some U.S. firms, they demonstrate our resolve and show that we are prepared to accept economic losses, if necessary, in our battle against terrorism. Openly acknowledging that the United States also will suffer from sanc-

tions helps us to encourage others to follow our example and make the required trade and financial sacrifices. At the Tokyo economic summit, the seven participating heads of government agreed in their Declaration on International Terrorism that:

Terrorism has no justification . . . [It] must be fought effectively through determined, tenacious, discreet and patient action combining national measures with international cooperation.

However, antiterrorism considerations, as important as they are, are only one facet of our policy toward any country. Other relevant factors—strategic, political, economic, humanitarian—must play a part in deciding whether to undertake an action such as imposing trade controls. Thus, in the abstract it is difficult to evaluate the advisability of sanctions. A particular course may be advisable in one case but inappropriate in another. The Administration banned virtually all trade and financial transactions with Libya after it became clear that previous actions, including partial sanctions, had not gone far enough. Similar action may not be useful in the case of other countries that support international terrorism.

Economic Consequences of Trade Sanctions

Impact on Target Countries. The effectiveness of U.S. economic sanctions in exerting economic pressure on a foreign government depends on many factors, including the U.S. trade relationship

with the target country, the availability of similar products from other countries, and alternative markets for the target country's products. The diversity of supply that characterizes most widely traded goods today limits the impact of unilateral trade sanctions on the target country's behavior: when one country or group of countries decides to withhold goods or services from a terrorist-supporting state, other suppliers may move in to fill the gap. Similarly, a unilateral boycott of the products of a terrorist-supporting state may simply shift market patterns. In the absence of international cooperation, the terrorist state often obtains what it wants to buy and finds alternative customers for what it has to sell, and our intended influence on it is correspondingly reduced. Sanctions, however, can have a significant effect in sectors where the United States is the key supplier. Export controls tend to have the greatest economic impact over the short term, as current sources of supply are interrupted and the target economy struggles to adjust.

The precise impact is often difficult to judge because reliable, up-to-date economic data may be lacking. In the case of Libya, we believe that the measures taken in January 1986 to ban virtually all economic activity with that country, magnified by the steep decline in oil prices, are contributing to the deterioration of the Libyan economy. Other countries' willingness to join us increases the economic effectiveness of the sanctions.

From 1978 to 1980, the United States provided 6% of Libya's imports,

according to International Monetary Fund (IMF) figures. On the other hand, the European Community (EC) accounted for more than 60% of Libya's total imports, while other Western industrialized countries supplied an additional 10%-15%. However, U.S. export controls probably have assumed an enhanced significance because they focus on items, such as aircraft and sophisticated oil field equipment, that may not be readily available from other countries.

As a result of increasingly more stringent export controls in 1981 and 1982, the U.S. market share in 1983 decreased to 2.5% of Libyan imports. IMF statistics indicate that, as a result of the downturn in the Libyan economy, European Community exports to Libya also declined in absolute terms during this period. It appears that our European trading partners were restrained in assuming lost U.S. business. Newly industrialized countries, however, including South Korea and Brazil, substantially increased their share of exports to Libya.

Following our 1982 ban on crude oil imports, U.S. imports from Libya declined dramatically, from \$7.4 billion in 1980 to only \$865,000 in 1983, according to Commerce Department statistics. The President's Executive Order of January 7, 1986, prohibited virtually all direct trade to or from Libya.

Libya traditionally has sought out U.S. contractors because of their reputation and reliability. Although the impact on services is not easily quantified, the departure of U.S. firms providing consulting, management, construction, and contracting services to Libya's oil industry and major development projects could be costly to the Libyan economy in terms of temporary disruptions and recontracting time. We have obtained promises from the other Summit Seven countries to try to discourage their firms from replacing departing American companies. How this will work out in practice remains to be seen, but the Italian presence, for example, has fallen from 15,000-17,000 to under 3,000.

Impact on the U.S. Economy. When the Administration has restricted trade with countries supporting terrorism, it has acted in full awareness that such measures also have costs for the U.S. economy. These can be divided into:

- Direct costs in terms of lost trade; and
- Indirect costs in our trade with other trading partners.

Direct Costs. The sheer size of the U.S. economy has helped absorb the direct costs of our trade controls. For example, U.S. exports to Libya in the late 1970s, before imposition of antiterrorism export controls, accounted for less than 1% of all U.S. exports. As a result of our export controls, U.S. exports to Libya declined by \$500 million from 1981 to 1982 and by another \$191 million in 1983. These direct costs often fall unevenly on different sectors of the U.S. economy. In the Libyan case, the most severe impact was on the U.S. aircraft and petroleum industries, which previously had dominated the Libyan market. In 1983 alone, the Administration denied licenses to sell \$597.5-million worth of large civil transport aircraft to Libya. The Commerce Department estimates that in the petroleum sector, our controls prevented U.S. firms from pursuing contracts worth at least \$150 million in 1984 and 1985 for the development of the Ras Lanuf refinery and petrochemical plant in Libya.

U.S. trade with other terrorism-supporting countries also has decreased in recent years. For example, exports to Iran declined from \$954 million in 1979 to just under \$74 million in 1985, and imports from \$2.7 billion to \$762 million. Trade with Syria and South Yemen is minimal. In 1985, we exported \$106-million worth of goods to Syria, while importing less than \$3 million. For South Yemen, the figures were \$9 million of exports and \$1 million of imports.

Indirect Costs. The use of economic sanctions also may entail significant indirect costs—generally incurred over a longer period. Frequent use of unilateral trade controls for foreign policy purposes can damage the reputation of American firms as reliable suppliers. Customers forced to buy elsewhere may never return to their U.S. suppliers. Other U.S. trading partners may change suppliers or deliberately "design out" U.S. components in their manufactured goods to avoid restrictions on where they can sell. For instance, the Commerce Department has reported that some foreign aircraft manufacturers are increasingly avoiding U.S. high-technology navigational devices for fear that new U.S. export controls might be imposed, thereby preventing sales or curtailing supplies of parts. U.S. firms also report that they are being precluded from major aircraft projects in some countries that do business with Libya and other targeted countries.

On the other hand, economic consequences flow from the continuation of terrorism. Some countries have been reluctant to join in sanctions because of

concerns about losing the economic benefits of trade with Libya. However, the terrorist threat and growing public concern about terrorism are costing airlines and other businesses, including American firms, millions of dollars in lost tourism and increased security costs. Although difficult to quantify, there is a growing economic cost from the lack of sufficient international cooperation to make economic and political sanctions more effective.

Diplomatic Consequences of Trade Sanctions

Leaving aside their economic impact, sanctions can be used for their political or diplomatic effect to demonstrate U.S. determination to oppose another nation's support of terrorism. Sanctions send a powerful nonmilitary signal that we will not countenance business as usual with those who support terrorists. They demonstrate that we support our policies with actions as well as words and are prepared to incur costs in our battle against international terrorism. This serves to refute criticisms that we ask our allies to make sacrifices while we continue to profit from commercial relations with countries supporting terrorism or that we are unwilling to try "peaceful measures" before taking other steps.

Sanctions can have political costs as well. U.S. policy attempts to consider political as well as economic consequences of sanctions in adjusting our responses. To the extent that we have other interests and prospects for cooperation with a targeted country, the United States must weigh the probable loss of influence against the expected benefits from economic sanctions. Measures that appear unnecessarily harsh or inappropriate can undermine our credibility with the targeted country as well as with friendly countries whose support we seek.

Economic sanctions can also create difficulties in our political relations with friendly countries that are unwilling to take measures similar to ours. These tensions may increase when our controls are applied extraterritorially to persons or things within the territories of friendly countries in a manner they consider infringes on their sovereignty. Our experience with the gas pipeline sanctions against the Soviet Union demonstrated the problems of extending unilateral U.S. sanctions effectively to overseas subsidiaries of U.S. companies. Several European countries, including the United Kingdom, have enacted blocking

legislation that can be invoked to prohibit persons in their territories from complying with U.S. controls. For these reasons, the Administration has attempted to moderate, where appropriate, the extraterritorial reach of our sanctions. For instance, our most recent sanctions against Libya were not extended to foreign subsidiaries of U.S. firms or to reexports of U.S.-origin goods, except transshipments.

All of these considerations influenced our decision to impose economic sanctions against Libya. Unilateral U.S. restrictions underscored our opposition to Qadhafi's policies, but they did not produce sufficient economic and political pressures to cause significant policy change. The decision to end all direct commercial relations with Libya showed our allies that we are willing to accept heavy costs and may have contributed to our recent success in obtaining multilateral cooperation, albeit limited, on sanctions and other measures.

Libya is an exceptional case. There are major qualitative differences between our relationship with Libya and other countries on the terrorism list. We have normal diplomatic relations with Syria and maintain a limited dialogue with some of the other countries. In stark contrast to Libya, we have been able on occasion to use our relationships with those countries to the benefit of U.S. interests.

Potential for Gaining International or Multilateral Cooperation

It is difficult to evaluate abstractly the potential for gaining international or multilateral cooperation for sanctions against countries that support or harbor terrorists.

Since the United States, Japan, and Western Europe together account for nearly three-quarters of the world's GNP [gross national product] and trade, the position of our allies is worth noting. The allies are reluctant to adopt economic sanctions for several reasons.

First, most maintain that sanctions are ineffective, often pointing to past efforts where they believe sanctions failed, such as Rhodesia.

Second, many allies have substantial commercial interests as well as citizens who might be placed in jeopardy by imposing sanctions.

Our major European allies belong to the European Community. Community decisions on sanctions historically have been made on the basis of consensus. Given the strong opposition of some EC members to economic sanctions, for reasons outlined above, consensus is difficult to achieve in most cases.

The allies are prepared, on a case-by-case basis, to take specific actions short of broad economic sanctions. In the Libyan case, the EC agreed at an early date that members would not sell weapons or military equipment to Libya and that, to the extent possible, EC governments would prevent their companies from undermining U.S. actions and replacing U.S. companies. Other measures, reaffirmed at the Tokyo summit, such as reducing the staffs of the Libyan Peoples' Bureaus, also are being implemented in a number of countries. We welcome the cooperation achieved and the strong signal it sends. We are consulting closely with our allies and have been urging additional measures.

Adequacy of Existing Authority To Impose Economic Sanctions

Existing legislation gives the President extensive authority to take economic measures against countries supporting terrorism. This authority has proven sufficient to impose broad controls on trade and other economic activity with such countries. The Export Administration Act of 1979, as amended, authorizes restrictions on exports to countries that support terrorism, and the recently enacted International Security and Development Cooperation Act of 1985 authorizes a ban on imports from such countries. U.S. law also permits a wide range of other antiterrorism sanctions, including a cutoff of foreign assistance and arms sales and termination of air services. In addition, the International Emergency Economic Powers Act authorizes the President, upon declaration of a national emergency, to regulate or prohibit a wide range of trade and financial transactions. An appendix to this report describes the most important of these authorities.

Under Section 6(j) of the Export Administration Act, the Secretary of State has designated Libya, Syria, Iran, Cuba, and the People's Democratic Republic of Yemen (South Yemen) as countries that have repeatedly provided support for international terrorism. These designations are periodically reviewed, and changes are made whenever a country's conduct so warrants. Cuba and Iran were added to the list in 1982 and 1984, respectively; Iraq was removed in 1982.

As our sanctions against these countries and, more recently, our ban on virtually all trade and financial transactions with Libya illustrate, the Administration is prepared to use these authorities vigorously. We must continue, however, to take specific circumstances into ac-

count, including the probable effectiveness and diplomatic and economic consequences of our actions. Other key factors include the entire range of relations we have with a specific nation and the direction of its policies. Legislation that would tie our hands by mandating blanket prohibitions on trade and/or financial transactions could harm U.S. business and relations with our allies without imposing any significant costs on the target country.

Flexibility is essential to respond to the unique and often rapidly changing circumstances of each case. For instance, during the Iranian hostage crisis, we imposed extensive prohibitions on trade and financial transactions with Iran. These sanctions provided a powerful negotiating tool in working for the release of the hostages. Had the sanctions been statutorily required, this leverage would have been lost. Armed with the flexibility to lift U.S. trade sanctions, we were able to conclude the 1981 Algiers accord and secure the release of the hostages.

APPENDIX A

Statutory Authorities for Sanctions

U.S. law permits a wide range of sanctions by the executive branch against countries involved in international terrorism. These include terminating assistance and arms sales, imposing import and export controls, suspending Export-Import Bank (Eximbank) credits, and, upon declaration of a national emergency, prohibiting financial transactions. The most important authorities are discussed below.

Emergency Powers. The International Emergency Economic Powers Act authorizes the President to regulate or prohibit a wide range of trade and financial transactions involving property in which any foreign country or national has an interest. This authority may be used to deal with "an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to that threat."

Commercial Exports. Section 308 of the Export Administration Act states that it is "the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those per-

sons involved in directing, supporting, or participating in acts of international terrorism." Section 6(a) authorizes the President to adopt foreign policy controls on exports of goods or technology subject to U.S. jurisdiction (or by any person subject to U.S. jurisdiction) to carry out this policy. This authority is exercised by the Secretary of Commerce in consultation with the Secretary of State, the U.S. Trade Representative, and certain others.

Imposition of foreign policy controls under the act is subject to procedural and substantive limitations. For example, section 3(8) provides that the President "shall make reasonable and prompt efforts to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before imposing export controls." There are requirements for consultation, reports, and findings as well as special limits on prior contracts and foreign availability.

Antiterrorism export controls imposed under the Export Administration Act are aimed at restricting the export of goods or technology that would contribute significantly to the military potential or enhance the terrorist-support capabilities of such countries. These controls cover large aircraft; militarized vehicles; specially designed equipment with which to produce military items; crime control and detection equipment; and all goods and technology subject to national security controls if destined for military use and valued at \$7 million or more. These controls were recently expanded to restrict the export of light helicopters (helicopters over 10,000 pounds were already controlled). For Iran, all aircraft, parts and avionics, and large marine outboard engines are embargoed; national security-controlled goods and technologies with military applications also are controlled. Libya and Cuba are subject to comprehensive trade and financial embargoes¹.

Imports. Section 505 of the International Security and Development Cooperation Act of 1985 authorizes the President to "ban the importation into the United States of any good or service from any country which supports terrorism or terrorist organizations or harbors terrorists or terrorist organizations." Prior consultation with Congress is required "in every possible

instance," and a report must be sent to Congress when the authority is exercised. Until this new authority was enacted, imports could be controlled only under the International Emergency Economic Powers Act pursuant to a declaration of national emergency or under the UN Participation Act pursuant to mandatory Security Council sanctions.

Libya. Section 505 was invoked most recently to cut off trade with Libya. In addition to the more general authorities to control imports and exports discussed above, Section 504 of the International Security and Development Cooperation Act of 1985 authorizes the President to prohibit imports of any article grown, produced, extracted, or manufactured in Libya. It also authorizes the President to prohibit exports to Libya of any goods or technology subject to U.S. jurisdiction or exported by any person subject to U.S. jurisdiction.

Foreign Assistance. The executive branch may terminate or decline to provide assistance for any foreign policy reason to any recipient of U.S. assistance under the Foreign Assistance Act, the Arms Export Control Act, the Agricultural Trade Development and Assistance Act, and the Peace Corps Act.

Arms Sales. The executive branch may decline to make military sales to any country for any appropriate foreign policy reason (including antiterrorism considerations), and Section 2(b) of the Arms Export Control Act gives the Secretary of State responsibility for authorizing sales to any particular country and in what amounts. The Department of State also has the authority, pursuant to section 38 of the act and the Department's International Traffic in Arms Regulations, to deny or cancel licenses for private arms exports for any foreign policy reason (including the recipient's support of terrorism). Under this authority, the Administration prohibits the export of items on the U.S. Munitions List to countries supporting terrorism.

Eximbank Programs. Section 2(b)(1)(B) of the Export-Import Bank Act explicitly mentions U.S. policy with respect to international terrorism as one of a limited category of nonfinancial considerations that can justify Eximbank denial of applications for credit, if the President determines that such action "would be in the national interest" and would "clearly and importantly advance" U.S. antiterrorism policy.

Aviation Sanctions. The Federal Aviation Act grants sweeping authority to the executive branch to impose aviation sanctions in response to terrorism as well as inadequate aviation security.

- Section 1114(a) authorizes the President to suspend air transportation between the United States and any country that he determines is violating the Hague convention or is aiding any terrorist organization that supports the seizure of aircraft as an instrument of policy.

- Section 1114(a) further authorizes the President to suspend air transportation between the United States and any foreign state that maintains air service with a third country guilty of violating the Hague convention or aiding a terrorist organization.

- Section 1115 authorizes the Secretary of Transportation, with the approval of the Secretary of State and after 90 days' notice to the foreign country, to withhold, revoke, or impose conditions on the operating authority of any U.S. or foreign air carrier to operate between the United States and a foreign airport characterized by inadequate security. Immediate suspension is mandated when "a condition exists that threatens the safety or security of passengers, aircraft, or crew [and] the public interest [so] requires." In addition, the President is authorized to prohibit U.S. and foreign air carriers from providing service between the United States and any foreign airport that is directly or indirectly served by aircraft flying to or from an inadequately secured airport.

- The Federal Aviation Act also contains sufficient authority for the Department of Transportation to prohibit the sale in the United States of airline tickets to countries against which aviation sanctions have been imposed.

APPENDIX B

Sanctions Required by U.S. Law

In addition to the statutory authorities described above, a number of other provisions of U.S. law require the imposition of sanctions on countries that facilitate international terrorism.

Commercial Exports. Section 6(j) of the Export Administration Act requires that certain congressional committees be notified at least 30 days before any license is approved for exports valued at

¹Our embargo on Cuba predates the antiterrorism export controls and was imposed in 1963 under the Trading With the Enemy Act.

more than \$7 million concerning which the Secretary of State has made the following determinations:

- The target country has repeatedly provided support for acts of international terrorism; and
- Such exports would contribute significantly to the military potential of the country, including its military logistics capability, or would enhance its ability to support acts of international terrorism.

Technically, there is no requirement that licenses for the exports actually be denied if the necessary advance notice is given. As amended this year, this section requires that once a determination is made regarding a particular country, it may not be rescinded unless the President certifies and reports to Congress that:

- The country concerned has not provided support for international terrorism, including support or sanctuary for any major terrorist or terrorist group in its territory, during the preceding 6-month period; and
- The country concerned has provided assurances that it will not support acts of international terrorism in the future.

Foreign Assistance. Section 620A of the Foreign Assistance Act (FAA), as amended this year, prohibits assistance under the FAA, the Agricultural Trade Development and Assistance Act, the Peace Corps Act, the Export-Import Bank Act of 1945, or the Arms Export Control Act to any country that the President determines:

- Grants sanctuary from prosecution to any individual or group that has committed an act of international terrorism; or
- Otherwise supports international terrorism.

The President may waive this prohibition if he determines and notifies Congress "that national security or humanitarian reasons justify such waiver." If sanctions are imposed, the section states that the President should call on other countries to take similar action. Moreover, Section 512 of the Foreign Assistance and Related Appropriations Act of 1986 prohibits use of any appropriated funds for assistance to, *inter alia*, Libya, Syria, South Yemen, and Cuba.

Foreign Military Sales. Section 3(f) of the Arms Export Control Act requires the President to terminate all sales under the act to any government "which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism." Once this provision is invoked, sales may not be made for a 1-year period (to be extended for an additional year for any subsequent grant of sanctuary). The President may refrain from invoking the provision if he finds and reports to Congress "that the national security requires otherwise."

Trade Preferences. Section 502(b)(7) of the Trade Act of 1974 requires that the President not designate a country as a "beneficiary developing country" for

purposes of the generalized system of preferences if such country "aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism." The President may, nonetheless, make such a designation if he determines and reports to Congress "that such designation will be in the national economic interest of the United States."

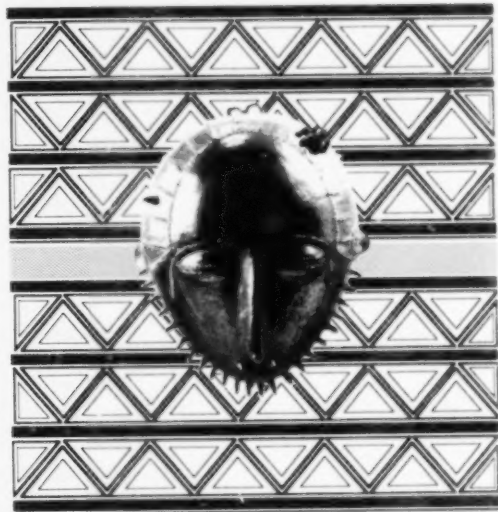
Aviation Sanctions. Section 1115 of the Federal Aviation Act, as amended by the International Security and Development Cooperation Act of 1985, requires the Secretary of Transportation to assess security conditions at international airports abroad. If deficiencies are found and not corrected within 90 days, the U.S. public will be notified through public postings at airports, a notice in the *Federal Register*, ticket supplements, and a travel advisory.

Section 552 of the International Security and Development Cooperation Act of 1985 provides for the President to suspend foreign assistance to a country that has an airport against which sanctions have been imposed "if the Secretary of State determines that such country is a high terrorist threat country." Suspension may be waived if national security interests or a humanitarian emergency require. ■

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